REMARKS

Applicants request reconsideration in view of the amendments above and the remarks that follow.

I. AMENDMENTS

A. Specification

Applicants have amended the specification to reflect the priority claim of the parent international application. This application is the National Phase of an international application, which priority claim was perfected during the international phase (see Tab A). Applicants properly listed this priority information on the Declaration and on the original application transmittal letter (copy attached at Tab B). The Patent Office acknowledged this priority claim in the filing receipt (copy attached at Tab C). Applicants therefore do not believe that a Petition under 37 C.F.R. § 1.78(a)(3) is required. Applicants request that the undersigned applicants' representative be informed right away (certainly by the next office communication) if such a Petition is required.

B. Claims

Applicants have canceled claims 1-45 without prejudice. Applicants have added new claims 51-53, which are within the scope of claim 1 and is supported in the

specification throughout. See, e.g., the specification at page 11, lines 3-7 and page 68, line 13 to page 69, line 15. Because these claims are within the scope of claim 1, they correspond to the subject matter of the elected invention.

II. OBVIOUSNESS-TYPE DOUBLE PATENTING

Claims 1-17 and 32-45 stand rejected provisionally for being obviousness-type double patenting over claims 1-2, 4-11, 13-19, 24-30, 32-38, 40-52, 58-60 of application no. 09/260,468, over claims 1-58 of application no. 09.467,076 or over claims 1-17, 32-45, 51-57, 62-75 of application no. 10/329,979. Applicants stand ready to file a terminal disclaimer, if one is determined to be needed after there is allowable subject matter in this case.

III. REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

For reasons detailed in the November 17, 2005 Office Action, claims 1-17 and 32-35 stand rejected under 35 U.S.C. § 112, first paragraph for allegedly lack of enablement. Applicants believe that claims 51-53 are enabled.

The Examiner agrees that cross species nuclear transfer was part of the state of the art at the earliest priority date of the instant application. See the November 17,

2005 Office Action at page 12. Applicants' claimed invention discloses an improvement to cross species nuclear transfer: namely incorporating mitochondria or mitonchondrial DNA derived from a mammalian donor cell into a recipient oocyte of another species. Applicants describes this method in detail in the specification. See, e.g., the specification at page 11, lines 3-7 and page 68, line 13 to page 14, line 15. A person of ordinary skill in the art should have no trouble in practicing this improvement method to cross species nuclear transfer following the disclosure of the specification.

For at least the foregoing reasons, claims 51-53 are enabled.

IV. ART-BASED REJECTION

For reasons detailed in the November 17, 2005 Office Action, claims 1-17 and 32-35 stand rejected under 35 U.S.C. § 103 as obvious in view of Wolfe et al. *Theriogenology* 3341: 350 (1990), Collas et al. *Molecular Reproduction and Development* 38: 264-267 (1994) or Westhusian et al. *Theriogenology* 46: 243-252 (1996). Applicants believe that claims 51-53 are not disclosed or suggested by the cited art.

None of the cited art discloses the methods of the claimed invention. There is simply no suggestion in any of them of these methods either. The person of ordinary skill in the art would thus not be motivated to try the claimed invention based on the cited art.

For at least the foregoing reasons, claims 51-53 are non-obvious in view of the cited art.

V. CONCLUSION

Applicants request that the Examiner pass the pending claims to issue.

Respectfully submitted,

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